

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1640

Chapter 429, Laws of 2005

59th Legislature
2005 Regular Session

MANUFACTURED/MOBILE HOME LANDLORD AND TENANT DISPUTES

EFFECTIVE DATE: 5/13/05

Passed by the House April 19, 2005

Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 6, 2005

Yeas 44 Nays 0

BRAD OWEN

President of the Senate

Approved May 13, 2005.

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1640** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 13, 2005 - 1:47 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1640

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Housing (originally sponsored by Representatives Morrell, Chase, Dunn, McCoy, O'Brien, Appleton and Lantz)

READ FIRST TIME 03/04/05.

AN ACT Relating to resolving manufactured/mobile home landlord and tenant disputes; amending RCW 59.22.050; creating new sections; providing an expiration date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1** (1) The legislature finds that there are factors unique to the relationship between a manufactured/mobile homeowner and a manufactured/mobile home park owner. Once occupancy has commenced, the difficulty and expense in moving and relocating a manufactured/mobile home can affect the operation of market forces, and lead to an inequality of the bargaining position of the parties. Once occupancy has commenced, a homeowner may be subject to violations of the manufactured/mobile home landlord-tenant act or unfair practices without a timely and cost-effective conflict resolution process. Although a homeowner, landlord, or park owner may take legal action as prescribed in the manufactured/mobile home landlord-tenant act, the judicial process is often time and cost prohibitive. This act is created for the purpose of protecting the public, fostering fair and honest competition, and regulating the factors unique to the relationship between the manufactured/mobile homeowner and park owner.

(2) The legislature finds that taking legal action against a park owner for violations of the manufactured/mobile home landlord-tenant act can be a costly and lengthy process, and that many people cannot afford to pursue a court process to vindicate statutory rights. Park owners similarly are impacted by legal fees and lengthy proceedings resulting from pursuing a remedy through the legal system and would also, therefore, benefit from having access to an appropriate, effective process that resolves disputes quickly and efficiently.

(3) Therefore, it is the intent of the legislature to provide a less costly and more efficient way for manufactured/mobile homeowners and park owners to resolve disputes, and to provide a mechanism for state authorities to quickly locate owners of manufactured housing communities. The legislature further intends to authorize the department of community, trade, and economic development to:

- (a) Register mobile home parks or manufactured housing communities and report upon data to the appropriate committees of the legislature by December 31, 2005;
 - (b) Expand its current ombudsman program by hiring or contracting with additional persons to conduct a greater number of investigations of alleged violations of the manufactured/mobile home landlord-tenant act; and
 - (c) Collect and report upon data related to conflicts and violations to the appropriate committees of the legislature by December 31, 2005.
- (4) If after receiving the reports under subsection (3) of this section, the legislature finds that the provisions of this act authorizing the department to register mobile/manufactured home communities, investigate complaints, clarify existing law, and work to resolve disputes in good faith voluntarily prove insufficient to adequately protect the rights and responsibilities of mobile home park tenants and owners, it is the intent of the legislature to find other methods for resolution in the future.

NEW SECTION. **Sec. 2** The definitions in this section apply throughout this act unless the context requires otherwise.

- (1) "Department" means the department of community, trade, and economic development.
- (2) "Director" means the director of the department of community, trade, and economic development.
- (3) "Mobile home park" or "manufactured housing community" means any real property that is rented or held out for rent to others for the placement of two or more mobile homes, manufactured homes, or park models for the primary purpose of production of income, except when the real property is rented or held out for rent for seasonal recreational purposes only and is not intended for year-round occupancy.
- (4) "Landlord" or "park owner" means the owner of a mobile home park or a manufactured housing community and includes the agents of the landlord.
- (5) "Tenant" or "homeowner" means any person, except a transient, who rents or occupies a mobile home lot.
- (6) "Owner" means one or more persons, jointly or severally, in whom is vested:
 - (a) All or part of the legal title to the real property; or
 - (b) All or part of the beneficial ownership, and a right to present use and enjoyment of the real property.
- (7) "Unfair practice" means any act that would constitute an unfair or deceptive act or practice under chapter 19.86 RCW.
- (8) "Complainant" means a landlord, park owner, tenant, or homeowner, who has a complaint alleging an unfair practice or violation of chapter 59.20 RCW.
- (9) "Respondent" means a landlord, park owner, tenant, or homeowner, alleged to have committed an unfair practice or violation of chapter 59.20 RCW.

NEW SECTION. **Sec. 3** (1) A complainant shall have the right to file a complaint with the department alleging an unfair practice or a violation of chapter 59.20 RCW.

- (2) The complainant must provide written notice to the respondent prior to notifying the department of an alleged violation of chapter 59.20 RCW or unfair practice. If the complaint is not remedied within the time frame provided by RCW 59.20.080 for tenant violations or 59.20.200 for landlord violations, the complainant may then file a complaint

with the department.

(3) The department may:

(a) Investigate the alleged violations at its discretion upon receipt of a complaint alleging unfair practices or violations of chapter 59.20 RCW;

(b) Utilize investigative ombudsman staff or contractors to investigate and evaluate complaints alleging unfair practices or violations of chapter 59.20 RCW;

(c) Discuss the issues surrounding or relating to the complaint with the complainant, respondent, or any witnesses, either individually or jointly;

(d) Explain options available to the complainant or respondent, including the involvement of other agencies; and

(e) Negotiate an agreement that is agreed upon by both the complainant and the respondent.

(4) The department may require or permit any person to file a complaint or statement in writing or otherwise as the department determines, as to the facts and circumstances concerning a matter to be investigated.

(5) The department has the power to employ investigative, administrative, and clerical staff as necessary for administration of this act.

(6)(a) Complainants and respondents shall cooperate with the department in the course of an investigation by:

(i) Furnishing any papers or documents requested;

(ii) Furnishing in writing an explanation covering the matter contained in a complaint when requested by the department; and

(iii) Allowing authorized access to department representatives for inspection of mobile home parks/manufactured housing community facilities relevant to the alleged violation being investigated.

(b) Failure to cooperate with the department in the course of an investigation is a violation of this act.

(7) After the department has completed its investigation and other duties, the department shall compile a written report documenting the process and resolution of the complaint investigation. Under no circumstances shall the department make or issue any finding, conclusion, decision, or ruling on whether there was a violation of chapter 59.20 or 19.86 RCW.

(8) By December 31, 2005, the department shall submit a summary report of its activities under this act during the period after the effective date of this act, through December 31, 2005, to the house of representatives housing committee and the senate committee on financial institutions, housing and consumer protection, including:

(a) The number of complaints received;

(b) The nature and extent of the complaints received;

(c) The actions taken on each complaint by the department;

(d) Recommendations on what further changes in law are necessary to resolve disputes;

(e) Recommendations on changes to the department's ombudsman and investigative programs;

(f) Recommendations on resources necessary to retain or improve the program; and

(g) Recommendations on whether a formal mobile/manufactured home landlord-tenant act enforcement and administrative hearing process should be adopted and how

such a process should be structured.

(9) The department shall ensure that notice of the ombudsman complaint resolution program is given to each mobile/manufactured home landlord or park owner and each mobile home unit owner or tenant. The landlord shall post an easily visible notice in all common areas of mobile/manufactured home communities, including in each clubhouse, summarizing mobile home park tenant rights and responsibilities, in a style and format to be determined by the department, and including a toll-free telephone number that mobile home park owners and tenants can use to seek additional information and communicate complaints.

(10) This section is not exclusive and does not limit the right of landlords or tenants to take legal action against another party as provided in chapter 59.20 RCW or otherwise. Exhaustion of this ombudsman remedy process is not required before bringing legal action. This act is not subject to chapter 34.05 RCW. This section does not apply to unlawful detainer actions initiated under chapters 59.20, 59.12, and 59.18 RCW; however, a tenant is not precluded from seeking relief under this act if the complaint claims the notice of termination violates RCW 59.20.080. Filing a complaint with the department is not a defense nor shall it in any way delay or otherwise affect an unlawful detainer action. Department-written reports documenting the process and resolution of the complaint investigation, any written explanation covering the matter requested by the department, any other documents or papers requested or produced by the department, or any other record of the complaint may be admissible only for purposes of impeachment in any unlawful detainer or other administrative or legal action in regard to chapter 59.20 RCW.

NEW SECTION. **Sec. 4** The director or individuals acting on the director's behalf are immune from suit in any action, civil or criminal, based upon any disciplinary actions or other official acts performed in the course of their duties under this act, except their intentional or willful misconduct.

NEW SECTION. **Sec. 5** (1) All mobile home parks and manufactured housing communities must be registered with the department.

(2) To apply for registration, the owner of a mobile home park or manufactured housing community must file with the department an application for registration on a form prescribed by the department. The application must include, but is not limited to:

- (a) The name and address of the owner of the mobile home park or manufactured housing community;
- (b) The name and address of the mobile home park or manufactured housing community;
- (c) The name and address of the manager of the mobile home park or manufactured housing community; and
- (d) The number of lots within the mobile home park or manufactured housing community that are subject to chapter 59.20 RCW.

(3) Certificates of registration are effective on the date issued by the department.

NEW SECTION. **Sec. 6** The department must:

- (1) Compile the most accurate list possible of all the mobile home parks or

manufactured housing communities in the state, the number of lots subject to chapter 59.20 RCW located in each mobile home park or manufactured housing community, and the names and addresses of the owners of these parks. The department shall present this list to the house of representatives housing committee and the senate committee on financial institutions, housing and consumer protection by December 31, 2005. The department is encouraged to work with groups including, but not limited to: The office of community development, mobile homeowners' associations, tenant advocacy groups, park owners' associations, and county assessors to generate the list;

(2) Send out notifications to all known mobile home park owners or manufactured housing community owners regarding the due date of the assessment pursuant to section 7 of this act. These notifications must include information about late fees and passing costs on to tenants; and

(3) Collect the registration assessment due from all mobile home park owners or manufactured housing community owners, and allow ninety days to pass before sending notices of late fees to noncomplying owners as provided in this act.

NEW SECTION. Sec. 7 (1) The owner of each mobile home park or manufactured housing community shall pay to the department a registration assessment of five dollars for each mobile home or manufactured home that is subject to chapter 59.20 RCW within a park or community to fund the costs associated with administering this act. Manufactured housing community owners or mobile home park owners may pass on no more than two dollars and fifty cents of this assessment to tenants.

(2) If an owner fails to pay the assessment before the registration expiration date, a late fee shall be assessed at the prevailing interest rate for superior court civil judgments for each mobile home or manufactured home that is subject to chapter 59.20 RCW. The owner is not entitled to any reimbursement of this fee from the tenants.

NEW SECTION. Sec. 8 The manufactured/mobile home investigations account is created in the custody of the state treasurer. All receipts from assessments and fees collected under section 7 of this act must be deposited into the account. Expenditures from the account may be used only for the costs associated with administering this act. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 9 RCW 59.22.050 and 1991 c 327 s 3 are each amended to read as follows:

(1) In order to provide general assistance to mobile home resident organizations, park owners, and landlords and tenants, the department shall establish an office of mobile home affairs which will serve as the coordinating office within state government for matters relating to mobile homes or manufactured housing.

This office will provide an ombudsman service to mobile home park owners and mobile home tenants with respect to problems and disputes between park owners and park residents and to provide technical assistance to resident organizations or persons in the process of forming a resident organization pursuant to chapter 59.22 RCW. The office will keep records of its activities in this area.

(2) The office shall perform all the consumer complaint and related functions of the

state administrative agency that are required for purposes of complying with this chapter and the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

(3) The office shall administer the mobile/manufactured home community registration program including the collection of assessments, associated late fees, and the compilation of data related to the number of communities and number of lots within the community that are subject to chapter 59.20 RCW.

(4) The office shall administer the mobile home relocation assistance program established in chapter 59.21 RCW, including verifying the eligibility of tenants for relocation assistance.

NEW SECTION. Sec. 10 Any amount assessed under section 7(2) of this act that remains uncollected on December 31, 2005, shall be collected under the terms of section 7 of this act as it existed before December 31, 2005.

NEW SECTION. Sec. 11 This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 12 Except for sections 10 and 13 of this act, this act expires December 31, 2005.

NEW SECTION. Sec. 13 Beginning in January 2006, the state treasurer shall transfer any funds remaining in the manufactured/mobile home investigations account under section 8 of this act to the mobile home affairs account under RCW 59.22.070 for the purposes under RCW 59.22.050. All funds collected by the department under section 10 of this act shall be transferred to the state treasurer for deposit into the mobile home affairs account.

Passed by the House April 19, 2005.

Passed by the Senate April 6, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.